IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF MAY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 7320 of 2005

Between:

K. Tyaga Raj, S/o. K. A. Chary,
Visakhapatnam.

..... PETITIONER

AND

1 Govt of A.P., rep. by its Prl. Secretary, Revenue Department, Secretarait, Hyderabad.
2 Govt of A.P., rep. by its Prl. Secretary, Municipal Administration, Secretarait, Hyderabad.
3 The District Collector, Visakhapatnam.
4 The Vice Chairman, Visakdhapatnam Urban Development-A Authority, Visakhapatnam.
5 The Mandal Revenue Officer, Visakhapatnam rural, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus, setting aside the orders of the District Collector, Visakhapatnam in Rc.No.5938/04/E2 dt. 9.12.2004 so far as it relates to Sy.No.43/1 of Kommadi Vill, of Visakhapatnam rural Mandal to an extent of Ac.3.00 as violative of principles of natural justice and the provisions of B.S.0.15, and other orders of the Govt in this regard and consequently direct the respondents not to resort to take possession of the schedule land in Sy.No.43/1 of Kommadi Village to an extent of Ac.3.00 of Visakhapatnam Rural Mandal, Visakhapatnam district and pass such other order or orders.

Counsel for the Petitioner: MR.P.RAMABRAHMAM

Counsel for the Respondents: GP FOR REVENUE

This Court at the admission stage made the following :

O R D E R:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondents.

This writ petition is filed questioning the proceedings, dated 09-12-2004, issued by the third respondent, the District Collector, in which it was stated that in pursuance of the orders of the Government dated 19-10-2004 directing the Urban Development Authorities to identify the Government lands that have potentiality for undertaking comprehensive new townships, the VUDA has identified the Government lands specified thereunder which are free from encroachments / assignments and requested to hand over advance possession of the same pending finalisation of regular alienation proposals. Having considered the same, the third respondent – District Collector under the impugned proceedings permitted the concerned Mandal Revenue Officers including the 5th respondent – Mandal Revenue Officer, Visakhapatnam Rural to hand over advance possession of the lands specified thereunder to VUDA and report compliance.

The case of the petitioner is that the land in Survey No.43/1 to an extent of Ac.3-00 cents was assigned in favour of his mother long back and after her death he has been continuing in possession and enjoyment of the same and that the said land was also erroneously

included in the lands specified in the impugned proceedings. He alleges that in pursuance of the impugned proceedings, he is likely to be dispossessed from the land in question. Hence, this writ petition.

The learned Government Pleader, under instructions, states that out the land of an extent of Ac.5-71cents situated in Survey No.43/1, which was classified as Assessed Waste Dry land, an extent of Ac.3-00 was assigned to the mother of the petitioner, however the said assignment was cancelled long back on the ground of violation of conditions of grant and the land was resumed to the Government. Subsequently, possession of the entire land as specified in the proceedings dated 9-12-2004, including the land in question was delivered to the Visakhapatnam Urban Development Authority as per the directions of the third respondent vide proceedings dated 09-12-2004. He further states that as on today the petitioner is not in possession of the land-in-question.

In view of what has been stated by the learned Government Pleader, the relief as prayed for cannot be granted. If the petitioner is still aggrieved and disputes the plea of the respondents that he is not in possession of the land-in-question, it is open to him to avail the common law remedy, but such a disputed question of fact cannot be gone into by this Court under Article 226 of the Constitution of India.

The writ petition is accordingly dismissed. No costs.

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(G. ROHINI, J)

Date:05-04-2005

Note:

Issue C.C. in two days.

B/o

ghn

To

1 The Principal Secerary, Govt of A.P., Revenue Department, Secretarait, Hyderabad.
2 The Principal Secretary, Govt of A.P., Municipal Administration, Secretarait, Hyderabad.

3 The District Collector, Visakhapatnam.

4 The Vice Chairman, Visakdhapatnam Urban Development-A Authority, Visakhapatnam.

5 The Mandal Revenue Officer, Visakhapatnam rural, Visakhapatnam.

6 Two CCs to the Government Pleader for Revenue, High Court of A.P., Hyderabad. (O.U.T.)

7 Two CD copies.